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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

MICHAEL GRUNERT, MORI JONES, )  
PAUL JOHNSON, ANDY SHANGIN, )  
HARVEY KALMAKOFF, CLEMENT )  
SHANGIN, MARVIN YAGI, JOHN )  
JONES, FRANK GRUNERT, )  
CLEMENS GRUNERT, ANDY )  
STEPANOFF, ALEC BRANDAL, )  
ERNIE CARLSON, and AL )  
ANDERSON, )

Plaintiffs, )

v. )

STATE OF ALASKA, ALASKA )  
BOARD OF FISHERIES, and ALASKA )  
DEPARTMENT OF FISH AND GAME, )

Defendants. )

Case No. A05-128 CV (TMB)

**JOINT STATUS REPORT FOR  
CASE REASSIGNED TO  
JUDGE BURGESS**

As required by the court's order of May 8, 2006, the parties have conferred  
and prepared the following report:

A. Nature of the Case

1. Lead attorneys: Arthur Robinson, plaintiffs; Lance Nelson, defendant
2. Basis for federal jurisdiction: Regulation allegedly inconsistent with U.S. Constitution.
3. Nature of Claims asserted in the complaint, as characterized by plaintiffs:
  - a. The original or First Cause of Action is for declaratory and injunctive relief regarding the constitutional validity of Alaska Board of Fisheries' cooperative fishery regulation;
  - b. If the second amended complaint is allowed to be filed, the Second Cause of Action would be against individual Board of Fisheries members in their individual capacities for deprivation of plaintiff rights guaranteed them under the equal protection and due process clauses of the United States Constitution.
4. Name of any party not served & nature of non-service: All parties presently served; if second amended complaint is filed, all former and current board members proposed as defendants will need to be served.
5. Principal legal issues: Constitutionality of regulation; mootness; general immunity, Eleventh Amendment Immunity.
6. Principal factual issues: None currently, validity of regulation will be based on Board record. If second amended complaint is filed there will be factual issues dealing with whether Board members acted in violation of 42 U.S.C. § 1983.

## B. Discovery

1. Brief description of completed discovery and any remaining discovery:  
Defendants have furnished plaintiffs with Board of Fisheries records for development and adoption of regulations at issue. If second amended complaint is filed, then more discovery will likely be required.
2. Pending and anticipated motions: Pending: Plaintiffs' Motion to File Second Amended Complaint. Anticipated: Defendant's Motion to Dismiss on Mootness Grounds; if not granted, then Defendant's Motion for Summary Judgment on the Merits.
3. Previously entered rulings on substantive issues: None.
4. Previously filed status report: Scheduling and Planning Conference Report filed September 26, 2005; Corrected Scheduling and Planning Conference Report filed October 5, 2005.

## C. Trial

1. The parties do not anticipate trial if second amended complaint is not allowed to be filed, but believe the case will be resolved on dismissal or summary judgment motions. If the second amended complaint is filed, then 4-6 weeks of trial may be required, if not resolved on motions for summary judgment or dismissal. Plaintiffs have requested a jury trial.

## D. Settlement

1. There have been no settlement offers exchanged; the parties do not request a settlement conference.

RESPECTFULLY SUBMITTED on behalf of plaintiffs and defendant this  
31<sup>ST</sup> day of May, 2006.

DAVID W. MÁRQUEZ  
ATTORNEY GENERAL

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I caused a copy of the foregoing to be mailed via regular US Mail, postage prepaid, to the following attorneys or parties of record:

By Electronic Mail to:

Arthur S. Robinson  
Robinson & Associates  
35401 Kenai Spur Hwy  
Soldotna, Alaska 99669  
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By Regular mail to:

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s/Lance B. Nelson